
FISCAL UPDATE Article

Fiscal Services Division

May 21, 2018



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

END OF SESSION — SF 2099 — PROBATE, SMALL ESTATES

Description. [Senate File 2099](#) relates to probate and the administration of small estates. The Act raises the maximum value of a small estate as defined under Iowa Code section [635.1](#) from \$100,000 to \$200,000. This Act adds a definition of “probate assets” to Iowa Code section [633.3](#). The term “probate assets” is defined as a decedent’s property subject to administration by a personal representative. The Act also makes various procedural changes to probate administration under Iowa Code chapter [635](#).

The effective date for the provisions amending Iowa Code sections [633.3](#), [635.2](#), [635.7](#), and [635.8](#) is July 1, 2018, and this will apply to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018. The provision amending Iowa Code section [635.1](#) will take effect July 1, 2020, and will apply to estates of decedents dying on or after July 1, 2020.

Fiscal Impact. [Senate File 2099](#) is estimated to reduce fee revenues to the State General Fund within a year of implementation. The Act is estimated to reduce fees to the State General Fund by \$178,000 in FY 2020 and \$356,000 in FY 2021.

It is important to note that the new definition of “probate assets” may have an even greater impact than estimated. The impact of this definition will depend on several factors. The Judicial Branch has indicated that [SF 2099](#) will not have an additional impact on fees collected from Iowa Code section [633.31](#)(2)(k) as long as:

- There is no additional movement among district courts to remove certain probate assets from the calculation of probate fees,
- The Iowa Supreme Court decision in [Nance v. Iowa Department of Revenue](#) does not have any influence on which assets are currently included in the calculation of probate assets, or
- The new definition of “probate assets” does not have an impact on what is included in the calculation of probate assets.

The Judicial Branch has indicated that if any of the factors listed above do occur, there could be a substantial reduction in General Fund revenue, possibly \$3.0 million to \$10.0 million, in the next few years due to the new definition of “probate assets.” If none of the factors occur, then the original fiscal impact will apply instead.

Enactment Date. This Act was approved by the General Assembly on May 4, 2018, and signed by the Governor on May 16, 2018.

LSA Staff Contact: Laura Book (515.205.9275) laura.book@legis.iowa.gov

965836